# Tools for Targeting: Environmental Justice Considerations in Compliance Assurance

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# Outline

I Context of TargetingII CriteriaIII Existing ToolsIV Next Steps

## Context of Research: Law and Science

There are important differences between the quest for truth in the courtroom and the quest for truth in the laboratory. Scientific conclusions are subject to perpetual revision. Law, on the other hand must resolve disputes finally and quickly.

Daubert v. Merrell Dow Pharmaceuticals, Inc., 509 U.S. 579 (1993).

Context of Research: Law and Science

Design parameters:

1. Relevant (e.g., information addresses the proposition for which it is proffered)

# 2. Reliable

- -fast
- -fair
- -efficient
- -accurate

# Context of Research: Law and Science Environmental Statutes Require:

"In assessing such a penalty, the Administrator shall take into account the seriousness of the violation and any good faith efforts to comply with applicable requirements."

RCRA § 3008(a)(3)

# Context of Research: Law and Science Environmental Statutes Require:

In determining the amount of a civil penalty, the Administrator shall take into account the nature, circumstances, extent, and gravity of the violation... and such other matters as justice may require.

TSCA 15 USC 2615(a)(2)(B)

Relevance: Risk, Impacts, Compliance

- 1. Disproportionate risk
- 2. Vulnerable populations
- 3. Under Enforcement
  - Lack of voice
  - Enforcement Presence

# Relevant and Applicable Agency Policy

1. Targeting

"When prioritizing actions to be taken under Section 7003, the Regions should give the highest priority to those sites and facilities that pose serious risks... As part of this analysis, the Regions should give particular consideration to sites and facilities that pose environmental justice concerns, such as those involving risk aggregation."

Guidance on the Use of Section 7003 of RCRA, Section II., Bullet 1 (Oct. 1997)

Defining "Environmental Justice"

EPA Defines "Environmental Justice" as:

The fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development of environmental laws, regulations, and policies.

## Defining "Environmental Justice"

"Fair treatment" means that no group of people, including a racial, ethnic, or socioeconomic group, should bear a disproportionate share of the negative environmental consequences resulting from industrial, municipal, and commercial operations or the execution of federal, state, local, and tribal programs and policies.

## Relevance: Risk

# Disproportionate Environmental Burden:

Higher concentrations of TRI facilities in low-income and/or minority communities

Minority and low-income populations live, disproportionately, in areas that have unhealthful air.



## **Relevance: Impacts:**

# **Vulnerable Populations/Impact:**

In the United States the asthma mortality rate among blacks was 2.5 times higher than for whites; in Chicago it was 4.7 times higher.

Children of low-income families comprise 83% of the children ages 1-5 who have blood lead poisoning.

## **Relevance: Risk/Impacts**

**Vulnerable Populations/Access to Medical Care** 

Hispanics and African Americans are about twice as likely to be uninsured as the general population.

People of color and low-income populations tend to have less access to medical care because of transportation, communication, and possibly employment related issues.



## **Relevance: Challenges to Compliance**

### Lack of Voice

Many low-income and/minority populations lack technical/legal and financial resources to effectively participate in the decisionmaking process.

### Other factors can include:

- 1. Limited English Proficiency;
- 2. Distrust/Lack of faith in the Agency;
- 3. Cultural barriers



## Relevance: Challenges to Compliance Enforcement Presence

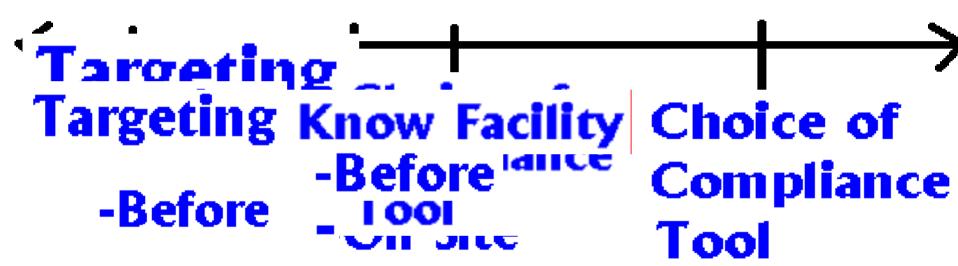
In Virginia, facilities located in communities in which more than half the population was African American were inspected less frequently than other facilities.

The quality of CERCLA remedies tend to be correlated by race and income, according to a 1992 National Law Journal Study.

Reports of possible violations tend to come from empowered communities that have an expectation of high environmental quality.



# Opportunities to Consider Environmental Justice in Compliance Assurance Activities



Applicable Guidance or Policy

Case Study

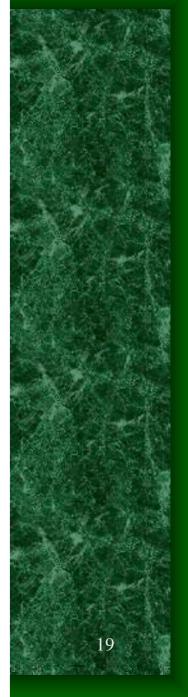
# Roxbury Bus Depot





#### EJ Scoping Report around "XXXXXX INC" site

ASSESSMENT OF THE PERSON OF TH		around "XXXXXX INC" site		
1	Race Distribution	(within 3 miles)		Exceeds Threshold
	View Map	Percent minority	56.2%	
The state of the s	Age Distribution	(within 3 miles)		Below Threshold
	View Map	Percent minors 17 and younger	16.7%	
多人工程		Percent seniors 65 and older	12.8%	
	Income	(within 3 miles)		Exceeds Threshold
	View Map	Percent persons below poverty	17.1%	
370	Ability to Speak English	(within 3 miles)		
	View Map	% who Speak English less than well	9.13%	
	Language Spoken at Home	(within 3 miles)		
		Speak only English	69.395%	
		Spanish or Spanish Creole	5.5%	
		Chinese	6.7%	
		Japanese	1.6%	
10 10 10		Vietnamese	3.6%	
		Tagalog	3.7%	
Total State		Other Pacific Island languages	1.1%	
met les		African languages	2.2%	
	0	Non-English Speaking	30.6%	
マスト 建	Superfund Sites	(within 1 miles)		Below Threshold
7	View Map	Total	0	
	Hazardous Waste Sites	(within 1 miles)		Exceeds Threshold
The state of	View Map	Total	<u>54</u>	
	Toxic Air Pollution Risk	King County (County)	WA (5	state)
The same	View Map Cumulative Cancer View Map Cumulative Non-Cance	.0000824(97)	.00004355(64) 3.62(66)	
metal is	School Sites	r 4.895(94.8) (within 1 mile)	3.02(00)	
	View Map	Total	0	
	Amenities	(within 5 miles)		
	View Map	Hospitals	5	
CONTRINS SERVICE		Churches	0	
	Population Density	(within 3 miles)		



# Target Facilities To Reduce Health Risks:

# EPA Targets Inspections Based on...

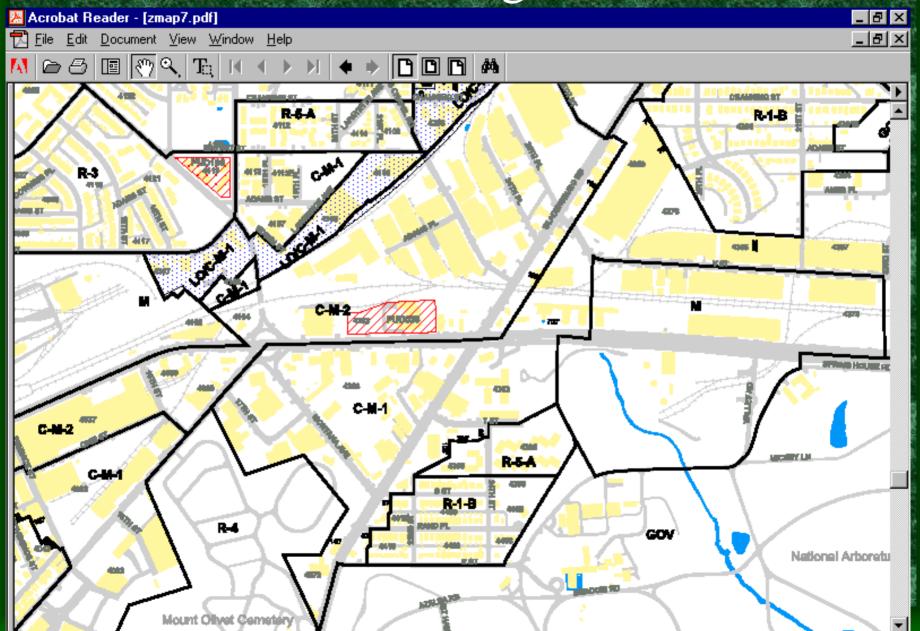
- A. Known/Possible health issues or multiple stressors in community or environment (*e.g.*, high prevalence of asthma, low birth-weight, injuries that correlate to violations);
- B. Environmental Condition (e.g., cumulative impacts from many sources, hot spots);

# Target Facilities To Reduce Health Risks:

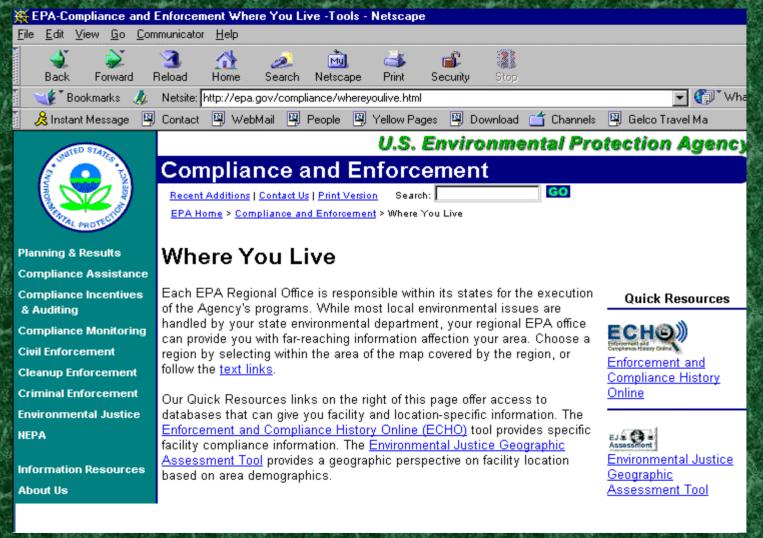
# EPA Targets Inspections Based on. . .

- C. Socio-economic factors, among other issues, (e.g., within a sector-based initiative select facilities that may raise environmental justice issues); and
- D. Known facilities or community concerns (*e.g.*, tips and information from systematic community outreach).

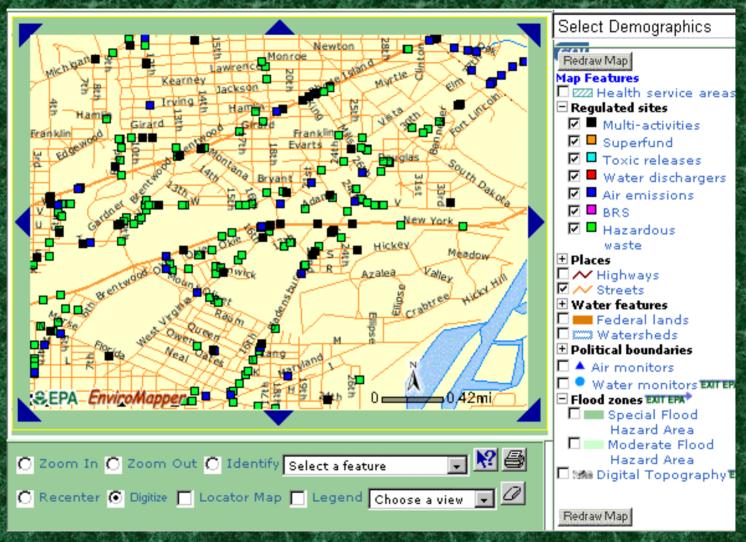
# Review Online Zoning Information



# Review Online GIS and Compliance Information www.epa.gov/compliance/whereyoulive.html



# Environmental Justice Geographic Assessment Tool



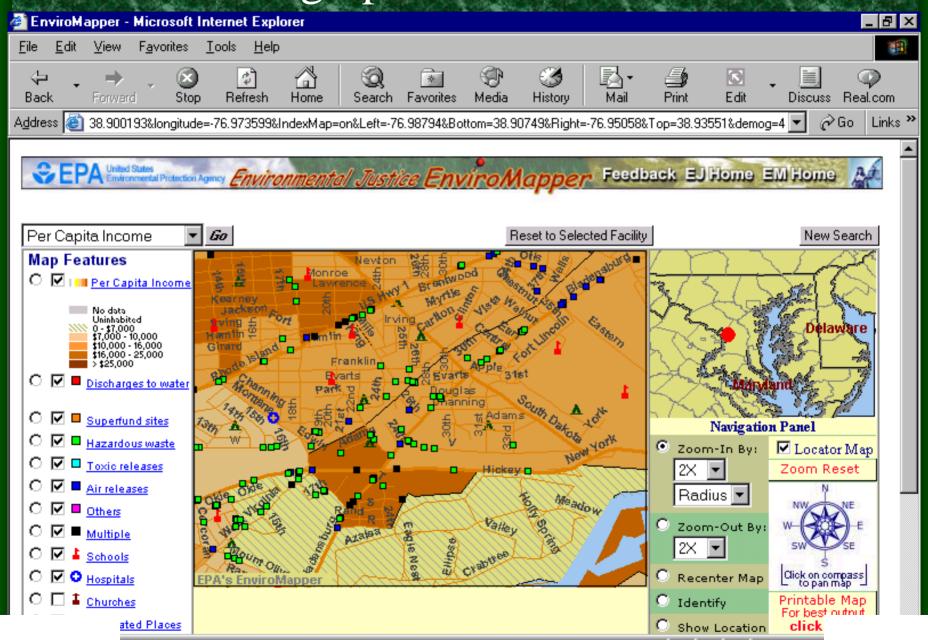
# Environmental Justice Geographic Assessment Tool

### County and State Comparison

### Overview

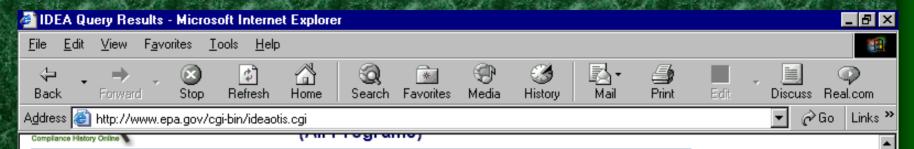
	Study Area	DISTRICT OF COLUMBIA County	PRINCE GEORGE'S County	DISTRICT OF COLUMBIA
Total Persons:	44258	572059	801515	572059
Population Density:	8103.03 /sq mi	9316.47 /sq mi	1651.14 /sq mi	9316.47 /sq mi
Percent Minority:	93.1%	72.3%	75.6%	72.3%
Persons Below Poverty Level:	10031 (22.7%)	109500 (19.1%)	60196 (7.5%)	109500 (19.1%)
Households in Area:	17153	248338	286610	248338
Households on Public Assistance:	1272	13664	5600	13664
Housing Units Built <1970:	84%	84%	50%	84%
Housing Units Built <1950:	58%	51%	11%	51%

# EJ Geographic Assessment Tool



Internet

# ECHO



#### 3 Facilities Returned

■ New Search

Please note that only larger facilities are shown unless you select "Include Minor Facilities", which is located at the bottom of the advanced search forms.

Facility Information Select Name to Read Report	Inspections (2 yrs)	Violations (2 yrs) ▼ ▲	Current Significant Violations ▼ ▲	Enforcement Actions (2 yrs)  V A
FORTH MYER CONSTRUCTION PLANT II 1155 W STREET NORTHEAST WASHINGTON, DC 20018	yes	no	no	(i)
WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY BRE 601 T STREET NORTHEAST WASHINGTON, DC 20018	no	no	no	1
<u>WMATA BLADENSBURG</u> 2250 26TH ST NE WASHINGTON, DC 20002	no	no	no	(i)

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#### Search Criteria

Facility Characteristics

AFS:FedRep or PCS:Major or RCRA:TSD+LQG : Y Active/Operating: Y

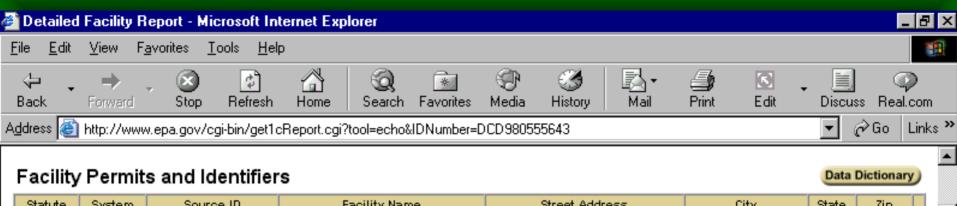
Geographic Location

Zip Code: 20018

return to top







Statute	System	Source ID	Facility Name	Street Address	City	State	Zip
	FRS	110002500366	WMATA BLADENSBURG	2250 26TH ST NE	WASHINGTON	DC	20002
CAA	AFS	1100144004	WMATA	2250 26TH STREET NE	WASHINGTON	DC	20018
RCRA	RCR	DCD980555643	WMATA BLADENSBURG	2250 26TH ST NE	WASHINGTON	DC	20002

### Facility Characteristics

**Data Dictionary** 

Statute	Source ID	Facility Status	Permit Expiration Date	Lat/Long	Indian Lands?	Primary SIC	Secondary SICs	
	110002500366			LRT lat: 38.9221 LRT long: - 76.9704	NA			
CAA	11100144004	Operating, Minor (Not Fed.Rep.)			NA	4111		
RCRA	DCD980555643	LQG		lat: 38.9050 long: -76.9847	No			

### Inspection and Enforcement Summary Data

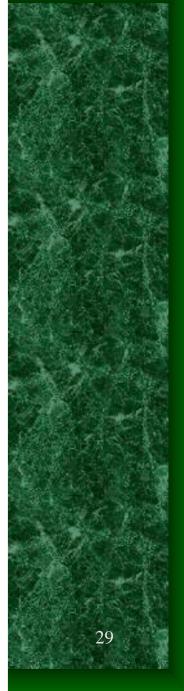
**Data Dictionary** 

Interr

Statute	Source ID	RECAP Insp. Last 02Yrs	Date of Last Inspection	Formal Enf Act Last 02 Yrs	Penalties Last 02 Yrs
CAA	1100144004	0	03/25/1998	0	\$00
RCRA	DCD980555643	0	02/11/1999	0	\$00

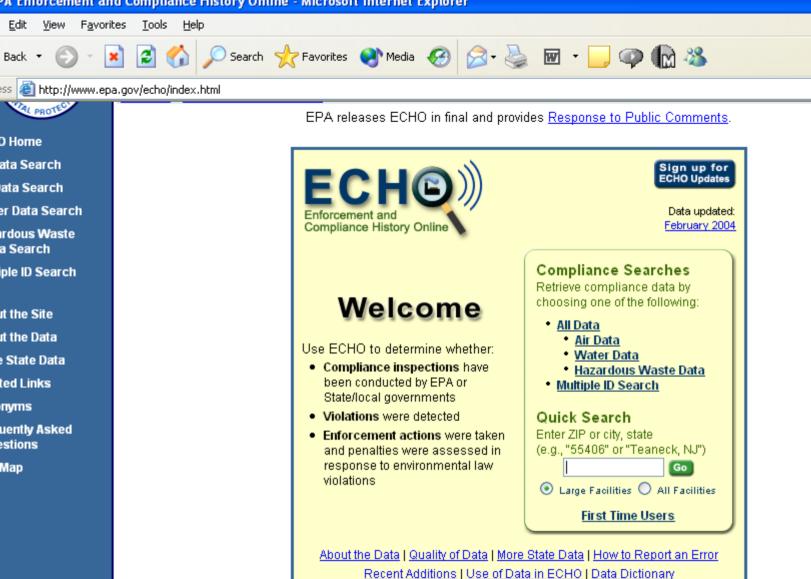
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		0		
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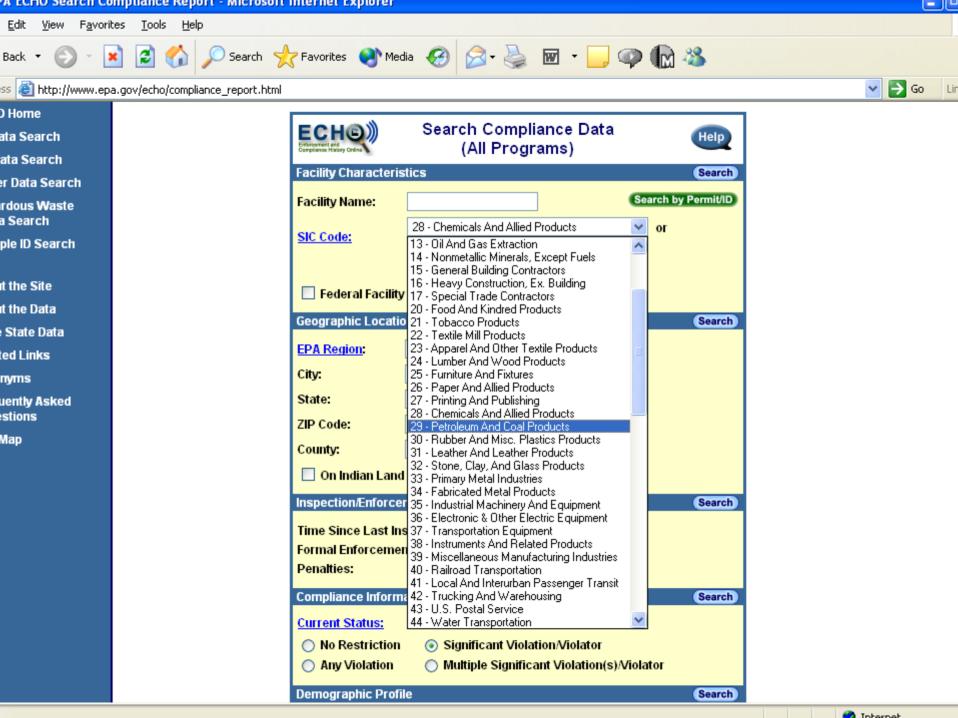
## **Next Steps:**

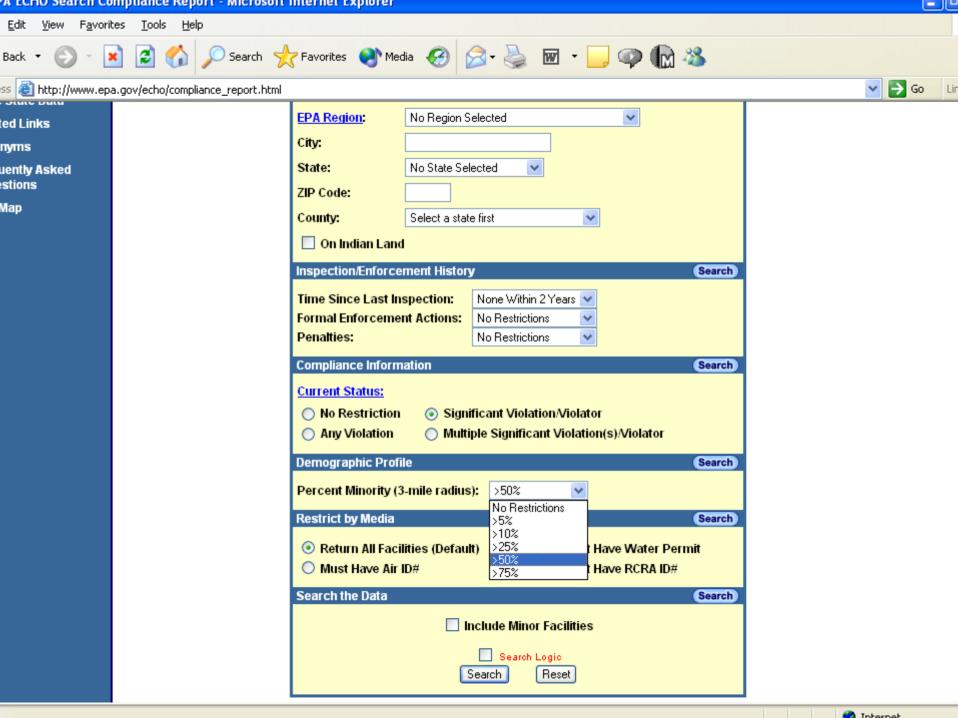
- 1. Identify better indicators (e.g., health disparities, social capital)
- 2. Develop faster, more efficient, fair, and accurate tools and methodologies (e.g., computer applications, community-based information)

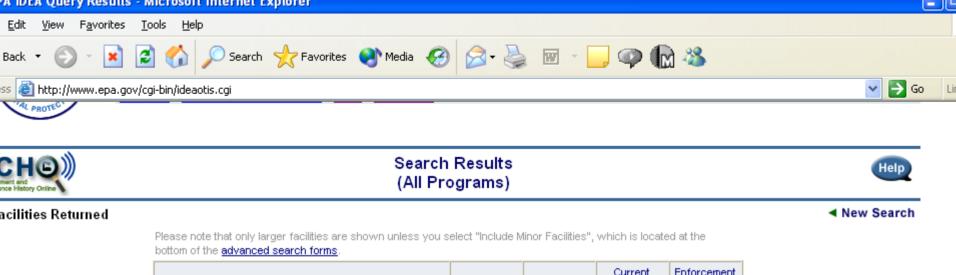


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Facility Information Select Name to Read Report	Inspections (2 yrs) ▼ ▲	Violations (2 yrs) ▼ ▲	Current Significant Violations ▼ ▲	Enforcement Actions (2 yrs)  ▼ ▲
ARCO PRODUCTS COMPANY MARINE TERMINAL 2 1300 PIER B STREET LONG BEACH, CA 90813	no	yes	yes	(i)
BETTEROADS ASPHALT- PLANT #6 RD 10 KM 80.6 HATO VIEJO ARECIBO, PR 00928	no	yes	yes	<u>(i)</u>
CONOCO PHILLIPS MARINE TERMINAL 150 PIER A STREET PORT OF LOS ANGELES WILMINGTON, CA 90744	no	yes	yes	yes
ELYEAGER COMPANY CAPE GLOUCSTER ROAD & HIGHWAY 66 BARSTOW, CA 92311	no	yes	yes	yes
REFINERY HOLDING COMPANY 6500 TROWBRIDGE DR. EL PASO, TX 79905	no	yes	yes	(i)
SCHLOSS PAVING COMPANY THE 13700 MCCRACKEN RD CLEVELAND, OH 44125	no	yes	yes	yes
V <u>VESTERN MOBILE 200YDHR CONCRETE</u> 3 MI SW OF SANTA FE SANTA FE, NM 87501	no	yes	yes	<u>(1)</u>



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